

REMARKS

1. After entry of this amendment, claims 1-9 and 11-21 appear in this case. The amendments to the claims are being made to eliminate all multiple dependencies, so as to reduce the filing fee, and to place the case in better condition for examination. Please enter this amendment prior to calculation of the filing fee.

2. Applicants hereby submit the following:

[XX] a paper copy of a "Sequence Listing", complying with §1.821(c), to be incorporated into the specification as directed above;

[XX] the Sequence Listing in computer readable form, complying with §1.821(e) and §1.824, including, if an amendment to the paper copy is submitted, all previously submitted data with the amendment incorporated therein;

3. The description has been amended to comply with §1.821(d).

4. The undersigned attorney or agent hereby states as follows:

(a) this submission does not include new matter [§1.821(g)];

(b) the contents of the paper copy (as amended, if applicable) and the computer readable form of the Sequence Listing, are the same [§1.821(f) and §1.825(b)];

(c) if the paper copy has been amended, the amendment is supported by the specification and does not include new matter [§1.825(a)]; and

(d) if the computer readable form submitted herewith is a substitute for a form found upon receipt by the PTO to be damaged or unreadable, that the substitute

data is identical to that originally filed
[§1.825(d)].

5. Under U.S. rules, each sequence must be classified in <213> as an "Artificial Sequence", a sequence of "Unknown" origin, or a sequence originating in a particular organism, identified by its scientific name.

Neither the rules nor the MPEP clarify the nature of the relationship which must exist between a listed sequence and an organism for that organism to be identified as the origin of the sequence under <213>.

Hence, counsel may choose to identify a listed sequence as associated with a particular organism even though that sequence does not occur in nature by itself in that organism (it may be, e.g., an epitopic fragment of a naturally occurring protein, or a cDNA of a naturally occurring mRNA, or even a substitution mutant of a naturally occurring sequence). Hence, the identification of an organism in <213> should not be construed as an admission that the sequence *per se* occurs in nature in said organism.

Similarly, designation of a sequence as "artificial" should not be construed as a representation that the sequence has no association with any organism. For example, a primer or probe may be designated as "artificial" even though it is necessarily complementary to some target sequence, which may occur in nature. Or an "artificial" sequence may be a substitution mutant of a natural sequence, or a chimera of two or more natural sequences, or a cDNA (i.e., intron-free sequence) corresponding to an intron-containing gene, or otherwise a fragment of a natural sequence.

The Examiner should be able to judge the relationship of the enumerated sequences to natural sequences by giving full consideration to the specification, the art cited therein, any

In re of: 10/518,056 FRESKGARD8

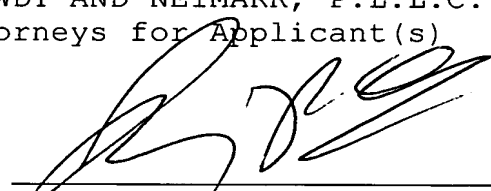
further art cited in an IDS, and the results of his or her sequence search against a database containing known natural sequences.

Prompt consideration on the merits and allowance are earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By


Iver P. Cooper
Registration No. 28,005

IPC:ses

Telephone No.: (202) 628-5197

Facsimile No.: (202) 737-3528

G:\ipc\g-i\hoib\FRESKGARD8\pto\new preliminary amendmentrevised10-06-04.doc